

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
<i>Plaintiff,</i>	§	CASE NO. 7:08-cv-196
	§	
v.	§	Tract No. RGV-MCS-1004
	§	RGV-MCS-1004E-1
0.98 ACRES OF LAND, MORE OR LESS,	§	RGV-MCS-1004E-2
SITUATE IN HIDALGO COUNTY,	§	RGV-MCS-1004E-3
TEXAS; AND PAMELA RIVAS,	§	RGV-MCS-1004E-4
ET AL.,	§	
	§	
<i>Defendants.</i>	§	

AMENDMENT TO COMPLAINT IN CONDEMNATION

On June 28, 2008, this proceeding commenced with the filing of a Complaint (Docket No. 1) and Declaration of Taking (Docket No. 2) in this Honorable Court in the name of the United States of America for the acquisition of certain interests in land identified as Tracts RGV-MCS-1004, RGV-MCS-1004E-1, RGV-MCS-1004E-2, RGV-MCS-1004E-3 and RGV-MCS-1004E-4 situate in Hidalgo County, Texas.

It is now necessary to further amend the Complaint in Condemnation as follows:

1. This is an amendment of a civil action brought by the United States at the request of the Secretary of the Department of Homeland Security, through the Director, Border Patrol Facilities and Tactical Infrastructure Program Management Office, Facilities Management and Engineering, Office of Administration, United States Customs and Border Protection, Department of Homeland Security for the taking of certain stated interests in real properties, under the power of eminent domain through a Declaration of Taking, as amended, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The Estates in the properties taken herein is under and in accordance with the Act of Congress approved on February 25, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

4. The public purpose for which said Estates in said properties is taken is to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States-Mexico border within the State of Texas.

5. The clarified legal descriptions and plats of the lands heretofore acquired in these proceedings, identified as Tracts RGV-MCS-1004, RGV-MCS-1004E-1, RGV-MCS-1004E-2, RGV-MCS-1004E-3 and RGV-MCS-1004E-4 are set forth in Schedules "CC" and "DD" attached hereto and made a part hereof, which are in lieu of Schedules "C" and "D" for said tracts attached to the original Complaint in Condemnation.

6. The clarified interests or estates in the lands already acquired in these proceedings, identified as Tracts, RGV-MCS-1004, RGV-MCS-1004E-1, RGV-MCS-1004E-2, RGV-MCS-1004E-3 and RGV-MCS-1004E-4 is set forth in Schedule "EE" attached hereto and made part hereof, which is in lieu of Schedule "E" for said tracts attached to the original Complaint

in Condemnation filed herein.

7. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

It is intended by this amendment that the original Complaint in Condemnation filed in this cause on June 28, 2008 (Docket No. 1) is not changed, and is not intended to be changed, in any respect except as herein above expressly set forth.

WHEREFORE, Plaintiff requests judgment that just compensation for the taking to the extent not already established, for acquired Tracts RGV-MCS-1004, RGV-MCS-1004E-1, RGV-MCS-1004E-2, RGV-MCS-1004E-3 and RGV-MCS-1004E-4 be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

KENNETH MAGIDSON

United States Attorney
Southern District of Texas

By: *s/ Daniel D. Hu*

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Schedule CC

SCHEDULE "CC"
LEGAL DESCRIPTION

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas

Acres: 0.3816

FIELD NOTES FOR 0.3816 ACRES OR 16,621 SQUARE FEET OF LAND, BEING A PORTION OF LOT 101 (CALLED 2.48 ACRES) OF THE VILLAGE OF LOS EBANOS, RECORDED IN VOLUME 13, PAGE 46, HIDALGO COUNTY MAP RECORDS (H.C.M.R.), CONVEYED TO PAMELA RIVAS BY A DEED DATED MARCH 23, 2006, RECORDED IN DOCUMENT NUMBER 1594667 OF THE HIDALGO COUNTY OFFICIAL RECORDS (H.C.O.R.) LOCATED IN HIDALGO COUNTY, TEXAS; SAID 0.3816 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a found 1/2 inch iron rod for the northwest corner of the herein described tract, being the northwest corner of said Lot 101, the southeast corner of Lot 340 of the subdivision of Porciones 38, 39 and 40 recorded in Volume 4, Page 17-19 H.C.M.R., conveyed to Rodolfo M. Pena, Jr., et. al. by a deed dated October 10, 2003, recorded in Document Number 1288402 H.C.O.R., the southwest corner of Section 5 of Lot 100 Village of Los Ebanos recorded in Volume 413, Page 269 of the Hidalgo County Deed Records (H.C.D.R.), conveyed to Rene J. Pena by a deed dated August 21, 1988, recorded in Volume 2652, Page 923 H.C.D.R. and the northeast corner of Lot 341 of said subdivision of Porciones 38, 39 and 40, having coordinates of N = 16,612,938.70, E = 963,283.41;

THENCE, South 80 degrees 33 minutes 21 seconds East, along the north line of said Lot 101 and the south line of said Section 5, Lot 100, a distance of 46.75 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI", set, for the northeast corner of the herein described tract;

THENCE, South 30 degrees 14 minutes 11 seconds East, severing said Lot 101, a distance of 107.44 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI", set, for an angle point of the herein described tract;

THENCE, South 00 degrees 01 minutes 44 seconds West, severing said Lot 101, a distance of 136.40 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI", set, for an angle point of the herein described tract;

THENCE, South 23 degrees 05 minutes 49 seconds West, severing said Lot 101, a distance of 42.25 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI", set, for the southeast corner of the herein described tract, being on the south line of said Lot 101 and the north line of a called

3.0 acre tract of land conveyed to E. B. Reyna by a deed dated January 20, 1951 recorded in Instrument Number 1851 H.C.D.R.;

THENCE, North 80 degrees 33 minutes 21 seconds West, along the south line of said Lot 101 and the north line of said Reyna tract, a distance of 61.74 feet to a 5/8 inch iron rod with aluminum cap stamped "LCP", set, for the southwest corner of the herein described tract, being on the south line of said Lot 101 and the north line of said Reyna tract;

THENCE, North 23 degrees 05 minutes 49 seconds East, severing said Lot 101, a distance of 44.58 feet to a 5/8 inch iron rod with aluminum cap stamped "LCP", set, for an angle point of the herein described tract;

THENCE, North 00 degrees 01 minutes 44 seconds East, severing said Lot 101, a distance of 107.92 feet to a 5/8 inch iron rod with aluminum cap stamped "LCP", set, for an angle point of the herein described tract;

THENCE, North 30 degrees 14 minutes 11 seconds West, severing said Lot 101, a distance of 44.71 feet to a point;

THENCE, North 09 degrees 26 minutes 39 seconds East, severing said Lot 101, a distance of 20.78 feet to a point;

THENCE, North 80 degrees 33 minutes 21 seconds West, severing said Lot 101, a distance of 17.24 feet to a point;

THENCE, North 30 degrees 14 minutes 11 seconds West, severing said Lot 101, a distance of 20.39 feet to a 5/8 inch iron rod with aluminum cap stamped "LCP", set, for a westerly corner of the herein described tract, being on the west line of said Lot 101 and the east line of said Lot 341;

THENCE, North 09 degrees 26 minutes 39 seconds East, along the west line of said Lot 101 and the east line of said Lot 341, a distance of 37.63 feet to the POINT OF BEGINNING and containing 0.3816 acre or 16,621 square feet of land.

Bearings and coordinates are referenced to the Texas Coordinate System, NAD83, South Zone (4205) and referenced to Cooperative CORS Network Station AUGLIR, having coordinates of N=16,664,165.44 & E=878,725.08. All coordinates and distances are U.S. Survey Foot.

25-Feb-13 bjc
Revised In-House

RGV-MCS-1004

SCHEDULE "CC" (Cont.)
LEGAL DESCRIPTION

PERPETUAL ROAD EASEMENT

Hidalgo County Texas

Tract: RGV-MCS-1004E-1

Owner: Pamela Rivas

Acreage: 0.3958

FIELD NOTES FOR 0.3958 ACRES OR 17,240 SQUARE FEET OF LAND, BEING A PORTION OF LOT 101 (CALLED 2.48 ACRES) OF THE VILLAGE OF LOS EBANOS RECORDED IN VOLUME 13, PAGE 46, HIDALGO COUNTY MAP RECORDS (H.C.M.R.), CONVEYED TO PAMELA RIVAS BY A DEED DATED MARCH 23, 2006, RECORDED IN DOCUMENT NUMBER 1594667 OF THE HIDALGO COUNTY OFFICIAL RECORDS (H.C.O.R.) LOCATED IN HIDALGO COUNTY, TEXAS; SAID 0.3958 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a found 1/2 inch iron rod for the northwest corner of said Lot 101, the southeast corner of Lot 340 of the subdivision of Porciones 38, 39 and 40 recorded in Volume 4, Page 17-19 H.C.M.R., conveyed to Rodolfo M. Pena, Jr., et. al. by a deed dated October 10, 2003, recorded in Document Number 1288402 H.C.O.R., the southwest corner of Section 5 of Lot 100 Village of Los Ebanos recorded in Volume 413, Page 269 of the Hidalgo County Deed Records (H.C.D.R.), conveyed to Rene J. Pena by a deed dated August 21, 1998, recorded in Volume 2652, Page 923 H.C.D.R. and the northeast corner of Lot 341 of said subdivision of Porciones 38, 39 and 40, having coordinates of N = 16,612,938.70, E = 963,283.41;

THENCE, South 80 degrees 33 minutes 21 seconds East, along the north line of said Lot 101 and the south line of said Section 5, Lot 100, a distance of 46.75 feet;

THENCE, South 30 degrees 14 minutes 11 seconds East, a distance of 41.93 feet to a point, for the **POINT OF BEGINNING** and the northwest corner of the herein described tract, having coordinates of N = 16,612,894.80, E = 963,350.64;

THENCE, South 75 degrees 39 minutes 40 seconds East, a distance of 125.70 feet to a point for an angle point of the herein described tract;

THENCE, South 67 degrees 23 minutes 20 seconds East, a distance of 71.40 feet to a point for an angle point of the herein described tract;

THENCE, South 77 degrees 15 minutes 32 seconds East, a distance of 76.23 feet to a point for an angle point of the herein described tract;

THENCE, South 26 degrees 27 minutes 05 seconds East, a distance of 59.32 feet to a point for an angle point of the herein described tract;

THENCE, South 01 degrees 07 minutes 46 seconds East, a distance of 149.14 feet to a point for the southeast corner of the herein described tract, being on the south line of said Lot 101 and the north line of a called 3.0 acre tract of land conveyed to E. B. Reyna by a deed dated January 20, 1951 recorded in Instrument Number 1851 H.C.D.R.;

THENCE, North 80 degrees 33 minutes 21 seconds West, along the south line of said Lot 101 and the north line of said Reyna tract, a distance of 40.69 feet to a point for an angle point of the herein described tract;

THENCE, North 01 degrees 07 minutes 46 seconds West, a distance of 132.68 feet to a point for an angle point of the herein described tract;

THENCE, North 26 degrees 27 minutes 05 seconds West, a distance of 31.33 feet to a point for an angle point of the herein described tract;

THENCE, North 77 degrees 15 minutes 32 seconds West, a distance of 60.69 feet to a point for an angle point of the herein described tract;

THENCE, North 67 degrees 23 minutes 20 seconds West, a distance of 71.96 feet to a point for an angle point of the herein described tract;

THENCE, North 75 degrees 39 minutes 40 seconds West, a distance of 83.40 feet to a point for an angle point of the herein described tract;

THENCE, North 30 degrees 14 minutes 11 seconds West, a distance of 56.15 feet to the POINT OF BEGINNING and containing 0.3958 acre or 17,240 square feet of land.

Bearings and coordinates are referenced to the Texas Coordinate System, NAD83, South Zone (4205) and referenced to Cooperative CORS Network Station AUGLIR, having coordinates of N=16,664,165.44 & E=878,725.08. All coordinates and distances are U.S. Survey Foot.

RGV-MCS-1004E-1

SCHEDULE "CC" (Cont.)
LEGAL DESCRIPTION

TEMPORARY ROAD EASEMENT

Hidalgo County Texas

Tract: RGV-MCS-1004E-2

Owner: Pamela Rivas

Acreage: 0.1135

FIELD NOTES FOR 0.1135 ACRES OR 4,945 SQUARE FEET OF LAND, BEING A PORTION OF LOT 101 (CALLED 2.48 ACRES) OF THE VILLAGE OF LOS EBANOS RECORDED IN VOLUME 13, PAGE 46, HIDALGO COUNTY MAP RECORDS (H.C.M.R.), CONVEYED TO PAMELA RIVAS BY A DEED DATED MARCH 23, 2006, RECORDED IN DOCUMENT NUMBER 1594667 OF THE HIDALGO COUNTY OFFICIAL RECORDS (H.C.O.R.) LOCATED IN HIDALGO COUNTY, TEXAS; SAID 0.1135 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a found 1/2 inch iron rod for the northwest corner of said Lot 101, the southeast corner of Lot 340 of the subdivision of Porciones 38, 39 and 40 recorded in Volume 4, Page 17-19 H.C.M.R., conveyed to Rodolfo M. Pena, Jr., et. al. by a deed dated October 10, 2003, recorded in Document Number 1288402 H.C.O.R., the southwest corner of Section 5 of Lot 100 Village of Los Ebanos recorded in Volume 413, Page 269 of the Hidalgo County Deed Records (H.C.D.R.), conveyed to Rene J. Pena by a deed dated August 21, 1998, recorded in Volume 2652, Page 923 H.C.D.R. and the northeast corner of Lot 341 of said subdivision of Porciones 38, 39 and 40, having coordinates of N = 16,612,938.70, E = 963,283.41;

THENCE, South 80 degrees 33 minutes 21 seconds East, along the north line of said Lot 101 and the south line of said Section 5, Lot 100, a distance of 46.75 feet;

THENCE, South 30 degrees 14 minutes 11 seconds East, a distance of 27.89 feet to a point, for the **POINT OF BEGINNING** and the northwest corner of the herein described tract, having coordinates of N = 16,612,906.93, E = 963,343.57;

THENCE, South 75 degrees 39 minutes 40 seconds East, a distance of 136.28 feet to a point for an angle point of the herein described tract;

THENCE, South 67 degrees 23 minutes 20 seconds East, a distance of 71.26 feet to a point for an angle point of the herein described tract;

THENCE, South 77 degrees 15 minutes 32 seconds East, a distance of 80.11 feet to a point for an angle point of the herein described tract;

THENCE, South 26 degrees 27 minutes 05 seconds East, a distance of 66.31 feet to a point for an angle point of the herein described tract;

THENCE, South 01 degrees 07 minutes 46 seconds East, a distance of 153.25 feet to a point for the southeast corner of the herein described tract, being on the south line of said Lot 101 and the north line of a called 3.0 acre tract of land conveyed to E. B. Reyna by a deed dated January 20, 1951 recorded in Instrument Number 1851 H.C.D.R.;

THENCE, North 80 degrees 33 minutes 21 seconds West, along the south line of said Lot 101 and the north line of said Reyna tract, a distance of 10.17 feet to a point for an angle point of the herein described tract;

THENCE, North 01 degrees 07 minutes 46 seconds West, a distance of 149.14 feet to a point for an angle point of the herein described tract;

THENCE, North 26 degrees 27 minutes 05 seconds West, a distance of 59.32 feet to a point for an angle point of the herein described tract;

THENCE, North 77 degrees 15 minutes 32 seconds West, a distance of 76.23 feet to a point for an angle point of the herein described tract;

THENCE, North 67 degrees 23 minutes 20 seconds West, a distance of 71.40 feet to a point for an angle point of the herein described tract;

THENCE, North 75 degrees 39 minutes 40 seconds West, a distance of 125.70 feet to a point for an angle point of the herein described tract;

THENCE, North 30 degrees 14 minutes 11 seconds West, a distance of 14.04 feet to the POINT OF BEGINNING and containing 0.1135 acre or 4,945 square feet of land.

Bearings and coordinates are referenced to the Texas Coordinate System, NAD83, South Zone (4205) and referenced to Cooperative CORS Network Station AUGLIR, having coordinates of N=16,664,165.44 & E=878,725.08. All coordinates and distances are U.S. Survey Foot.

RGV-MCS-1004E-2

SCHEDULE "CC"
LEGAL DESCRIPTION

TEMPORARY ROAD EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-3

Owner: Pamela Rivas

Acres: 0.0844

DESCRIPTION FIELD NOTES FOR 0.0844 ACRES OR 3,678 SQUARE FEET OF LAND, BEING A PORTION OF LOT 101 (CALLED 2.48 ACRES) OF THE VILLAGE OF LOS EBANOS RECORDED IN VOLUME 13, PAGE 46, HIDALGO COUNTY MAP RECORDS (H.C.M.R.), CONVEYED TO PAMELA RIVAS BY A DEED DATED MARCH 23, 2006, RECORDED IN DOCUMENT NUMBER 1594667 OF THE HIDALGO COUNTY OFFICIAL RECORDS (H.C.O.R.) LOCATED IN HIDALGO COUNTY, TEXAS; SAID 0.0844 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a found 1/2 inch iron rod for the northwest corner of said Lot 101, the southeast corner of Lot 340 of the subdivision of Porciones 38, 39 and 40 recorded in Volume 4, Page 17-19 H.C.M.R., conveyed to Rodolfo M. Pena, Jr., et. al. by a deed dated October 10, 2003, recorded in Document Number 1288402 H.C.O.R., the southwest corner of Section 5 of Lot 100 Village of Los Ebanos recorded in Volume 413, Page 269 of the Hidalgo County Deed Records (H.C.D.R.), conveyed to Rene J. Pena by a deed dated August 21, 1998, recorded in Volume 2652, Page 923 H.C.D.R. and the northeast corner of Lot 341 of said subdivision of Porciones 38, 39 and 40, having coordinates of N = 16,612,938.70, E = 963,283.41;

THENCE, South 80 degrees 33 minutes 21 seconds East, along the north line of said Lot 101 and the south line of said Section 5, Lot 100, a distance of 46.75 feet;

THENCE, South 30 degrees 14 minutes 11 seconds East, a distance of 98.08 feet to a point, for the **POINT OF BEGINNING** and the northwest corner of the herein described tract, having coordinates of N = 16,612,846.29, E = 963,378.92;

THENCE, South 75 degrees 39 minutes 40 seconds East, a distance of 83.40 feet to a point for an angle point of the herein described tract;

THENCE, South 67 degrees 23 minutes 20 seconds East, a distance of 71.96 feet to a point for an angle point of the herein described tract;

THENCE, South 77 degrees 15 minutes 32 seconds East, a distance of 60.69 feet to a point for an angle point of the herein described tract;

THENCE, South 26 degrees 27 minutes 05 seconds East, a distance of 31.33 feet to a point for an angle point of the herein described tract;

THENCE, South 01 degrees 07 minutes 46 seconds East, a distance of 132.68 feet to a point for the southeast corner of the herein described tract, being on the south line of said Lot 101 and the north line of a called 3.0 acre tract of land conveyed to E. B. Reyna by a deed dated January 20, 1951 recorded in Instrument Number 1851 H.C.D.R.;

THENCE, North 80 degrees 33 minutes 21 seconds West, along the south line of said Lot 101 and the north line of said Reyna tract, a distance of 10.17 feet to a point for an angle point of the herein described tract;

THENCE, North 01 degrees 07 minutes 46 seconds West, a distance of 128.57 feet to a point for an angle point of the herein described tract;

THENCE, North 26 degrees 27 minutes 05 seconds West, a distance of 24.34 feet to a point for an angle point of the herein described tract;

THENCE, North 77 degrees 15 minutes 32 seconds West, a distance of 56.80 feet to a point for an angle point of the herein described tract;

THENCE, North 67 degrees 23 minutes 20 seconds West, a distance of 72.10 feet to a point for an angle point of the herein described tract;

THENCE, North 75 degrees 39 minutes 40 seconds West, a distance of 75.26 feet to a point for an angle point of the herein described tract;

THENCE, North 00 degrees 01 minutes 44 seconds East, a distance of 3.44 feet to a point for an angle point of the herein described tract;

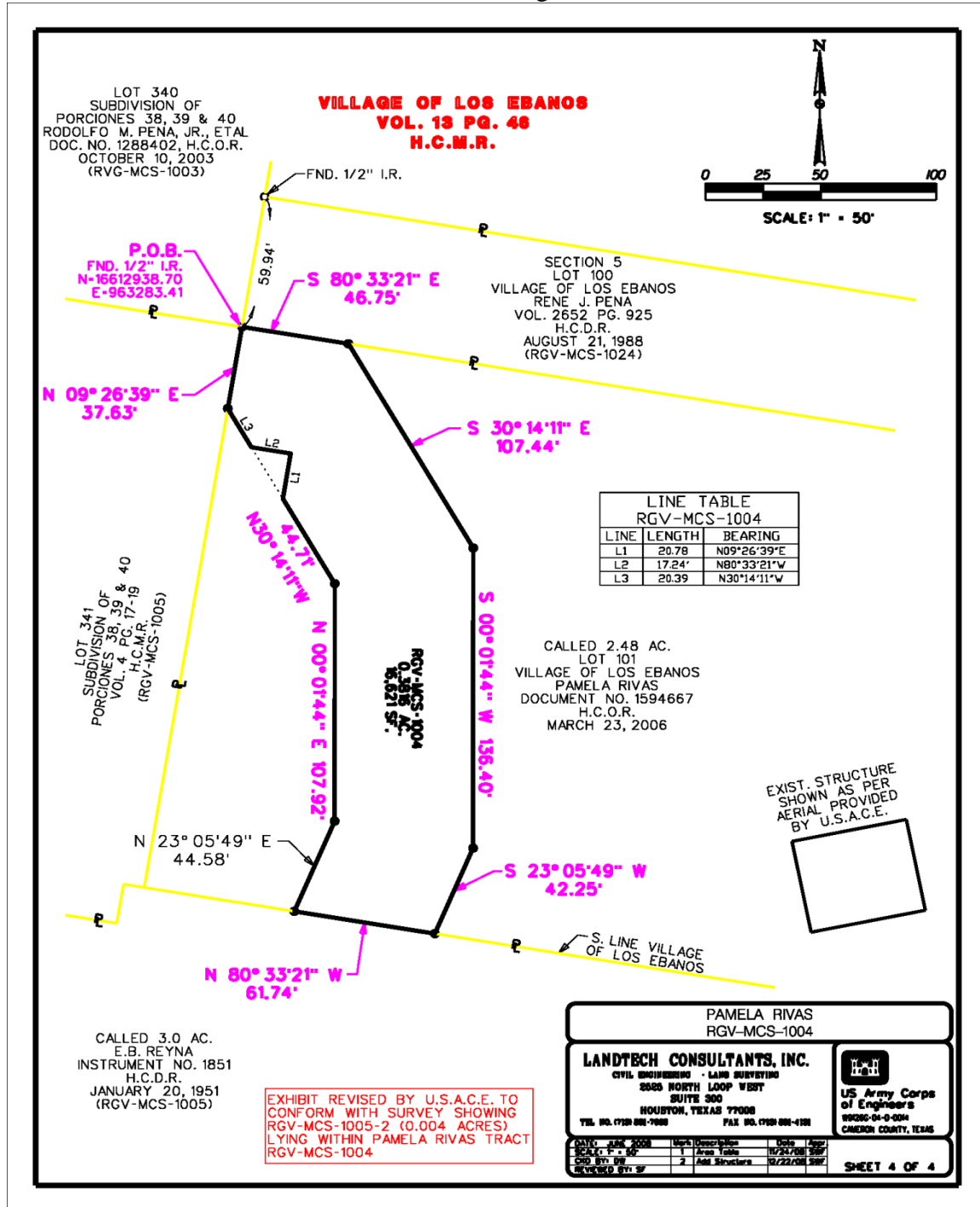
THENCE, North 30 degrees 14 minutes 11 seconds West, a distance of 9.35 feet to the POINT OF BEGINNING and containing 0.0844 acre or 3,678 square feet of land.

Bearings and coordinates are referenced to the Texas Coordinate System, NAD83, South Zone (4205) and referenced to Cooperative CORS Network Station AUGLIR, having coordinates of N=16,664,165.44 & E=878,725.08. All coordinates and distances are U.S. Survey Foot.

Tract: RGV-MCS-1004E-3

Schedule DD

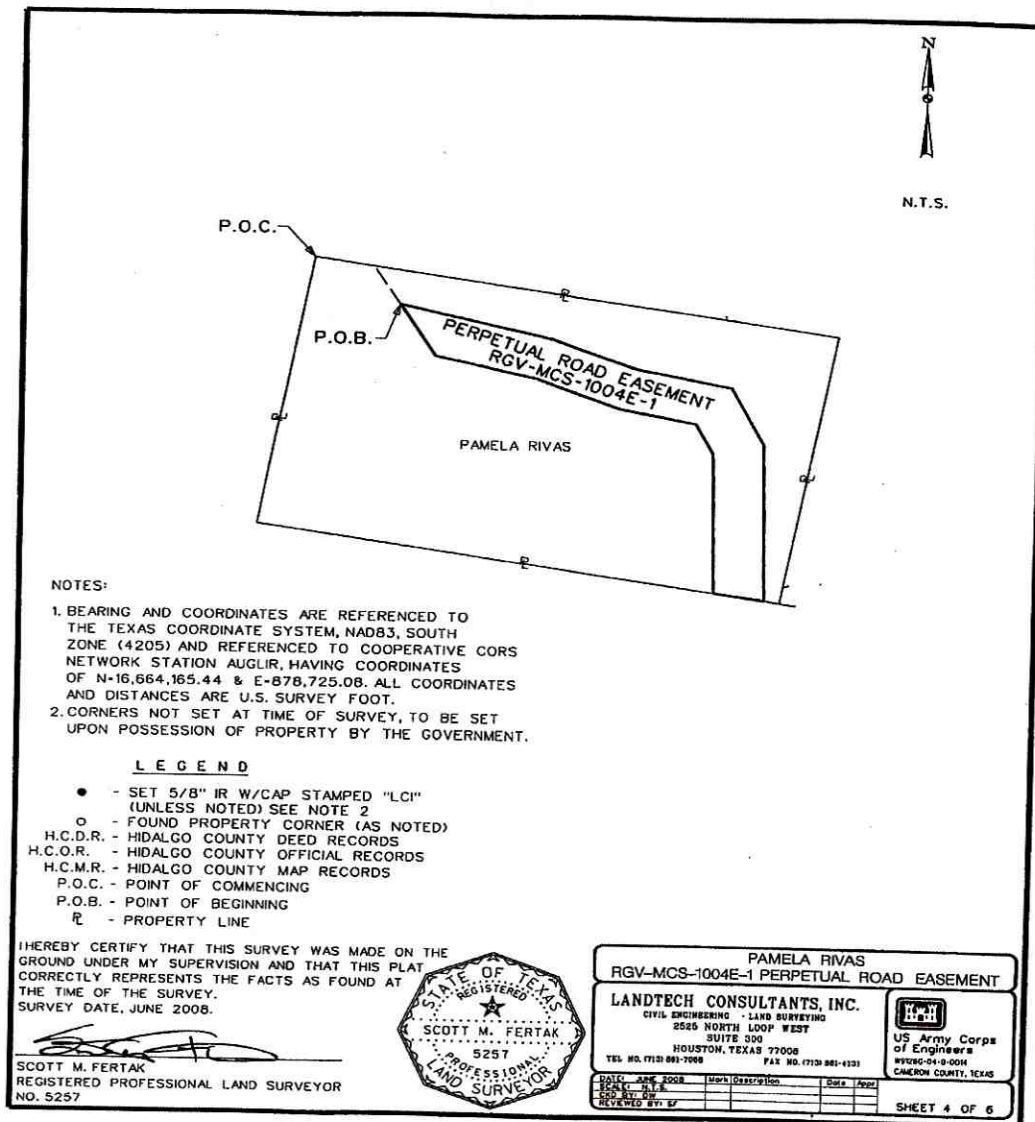
SCHEDULE "DD"
Fee, Excluding Minerals



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004
 Owner: Pamela Rivas
 Acres: 0.3816
 Hidalgo County, Texas

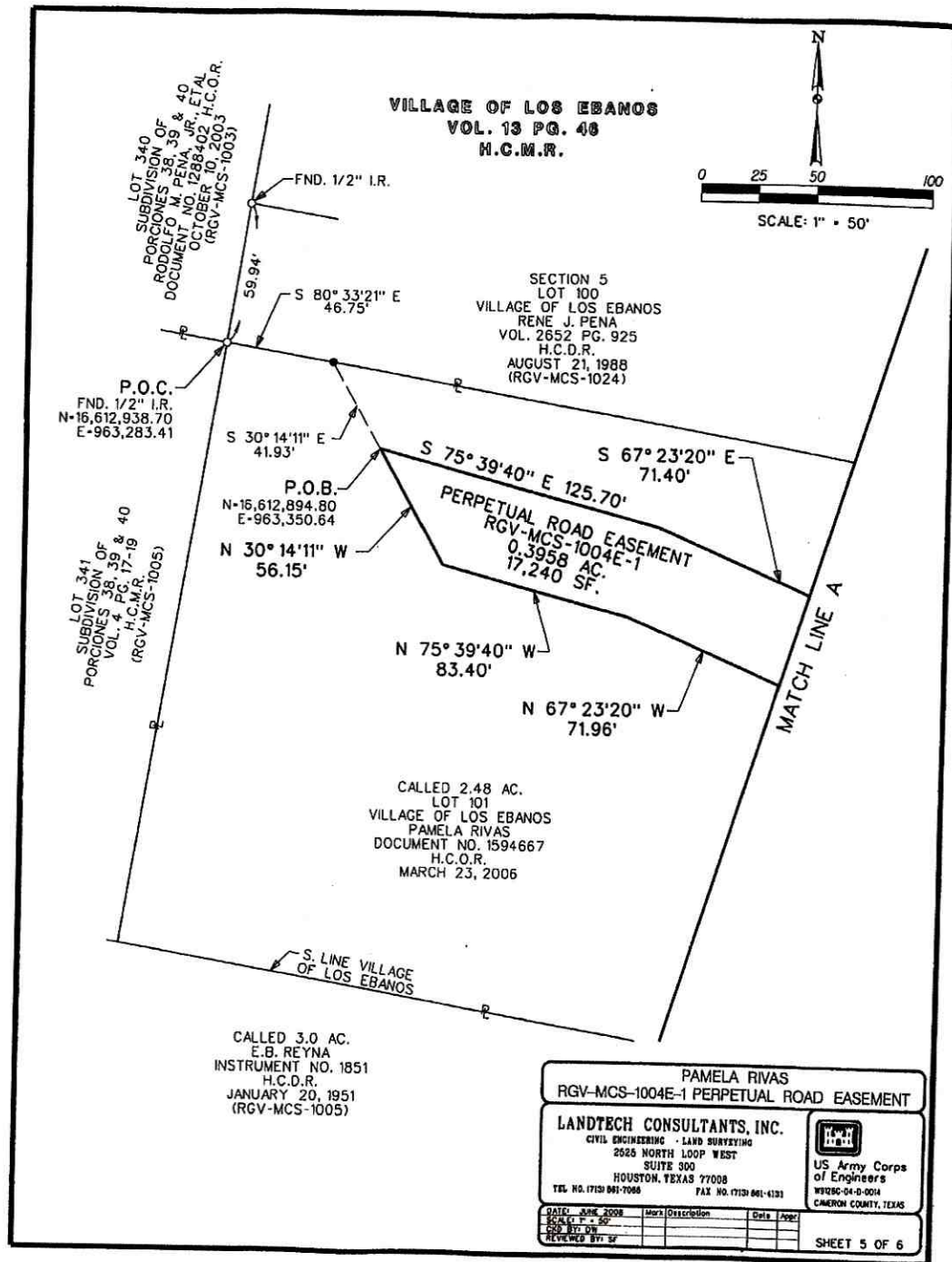
SCHEDULE "DD" Perpetual Road Easement



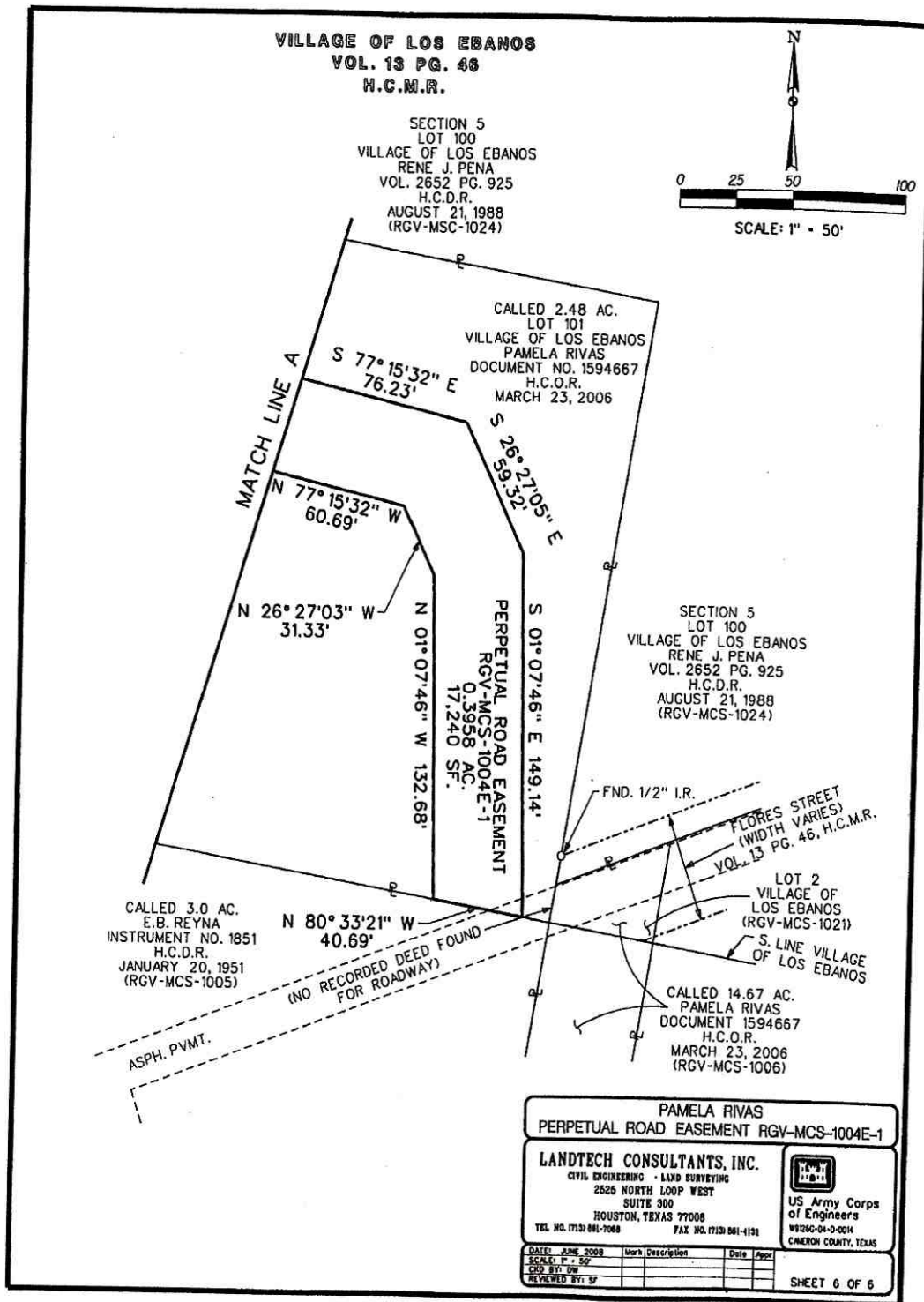
LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-1
Owner: Pamela Rivas
Acres: 0.3958
Hidalgo County, Texas

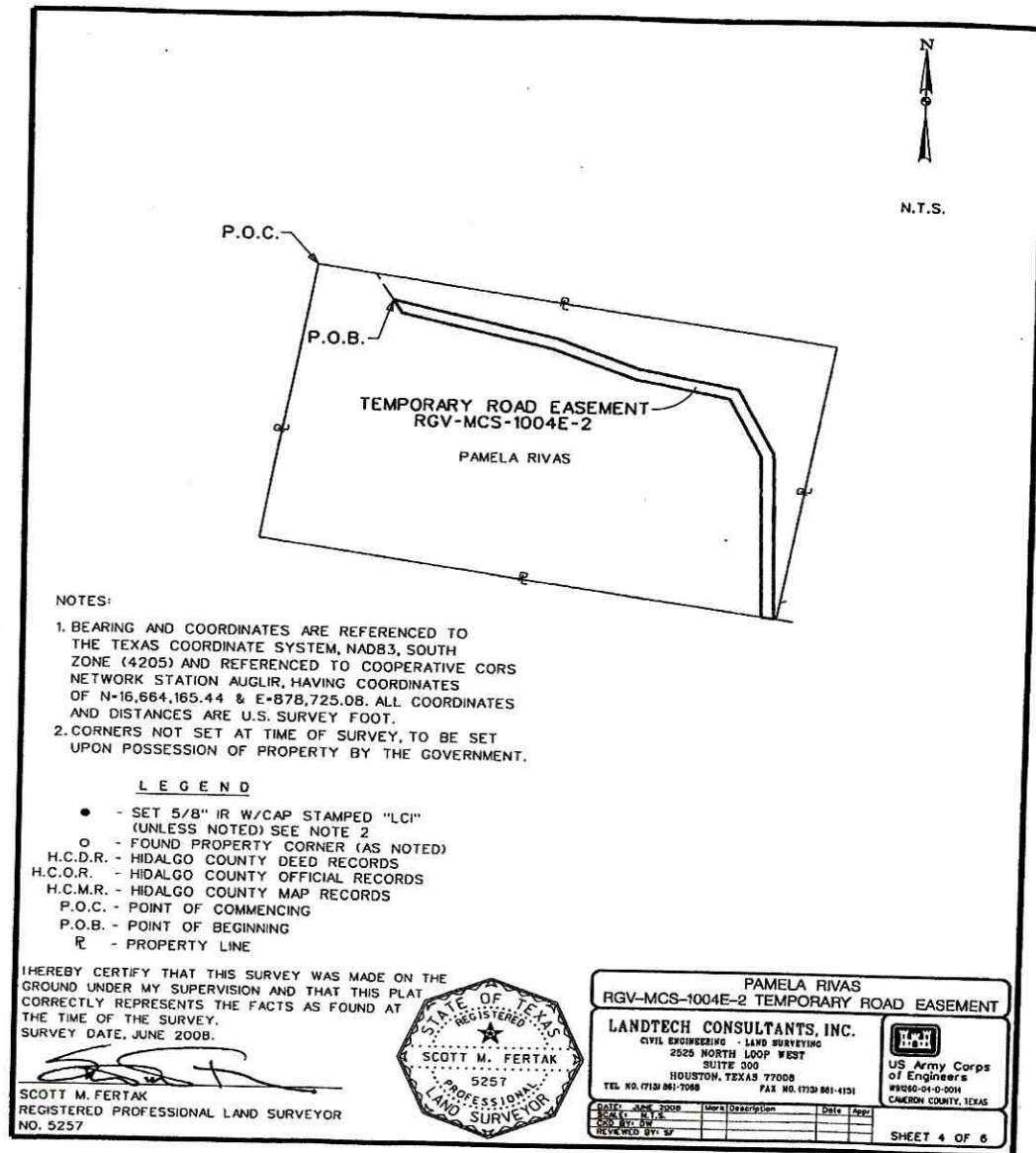
SCHEDULE "DD"
Perpetual Road Easement



SCHEDULE "DD" Perpetual Road Easement



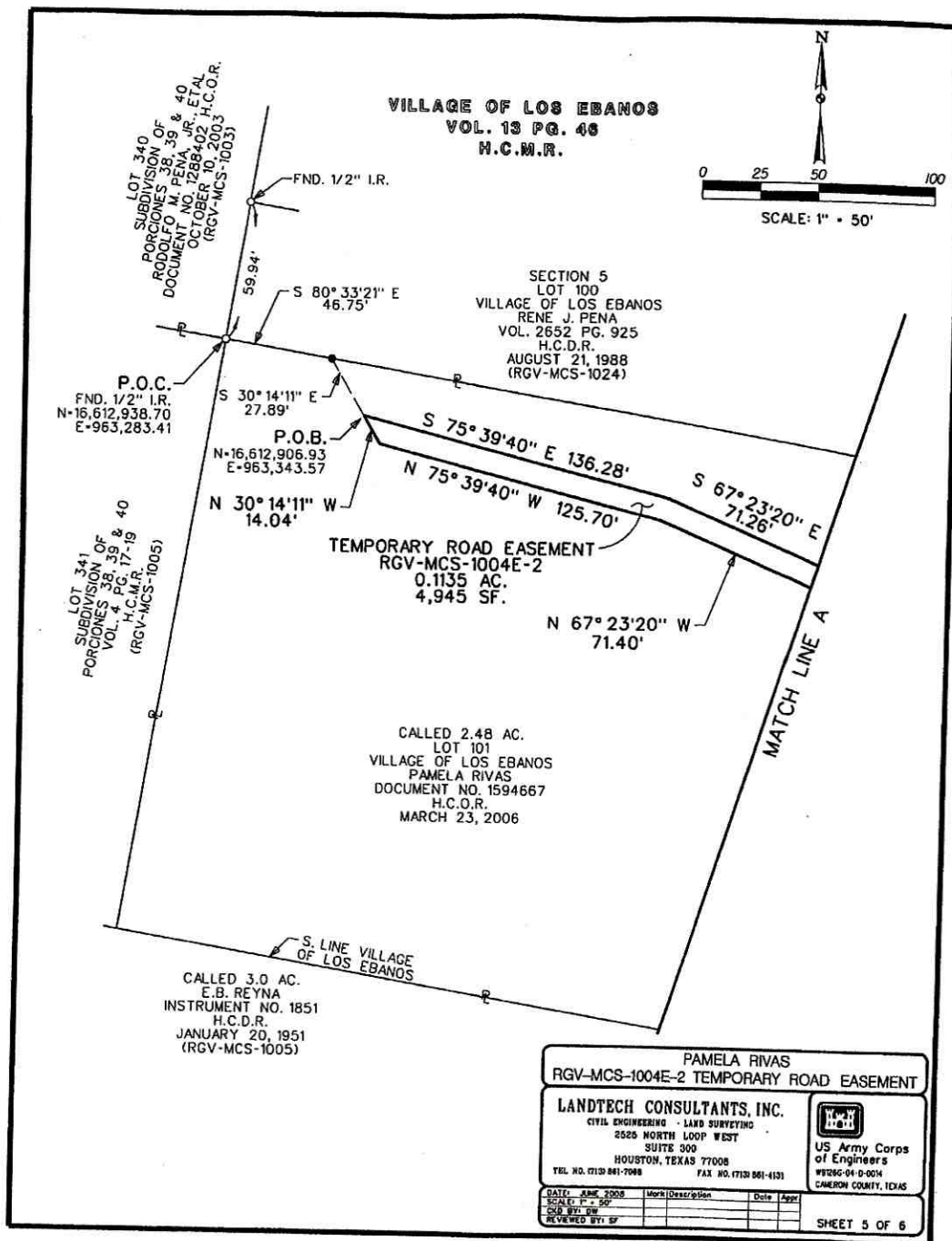
SCHEDULE "DD" Temporary Road Easement



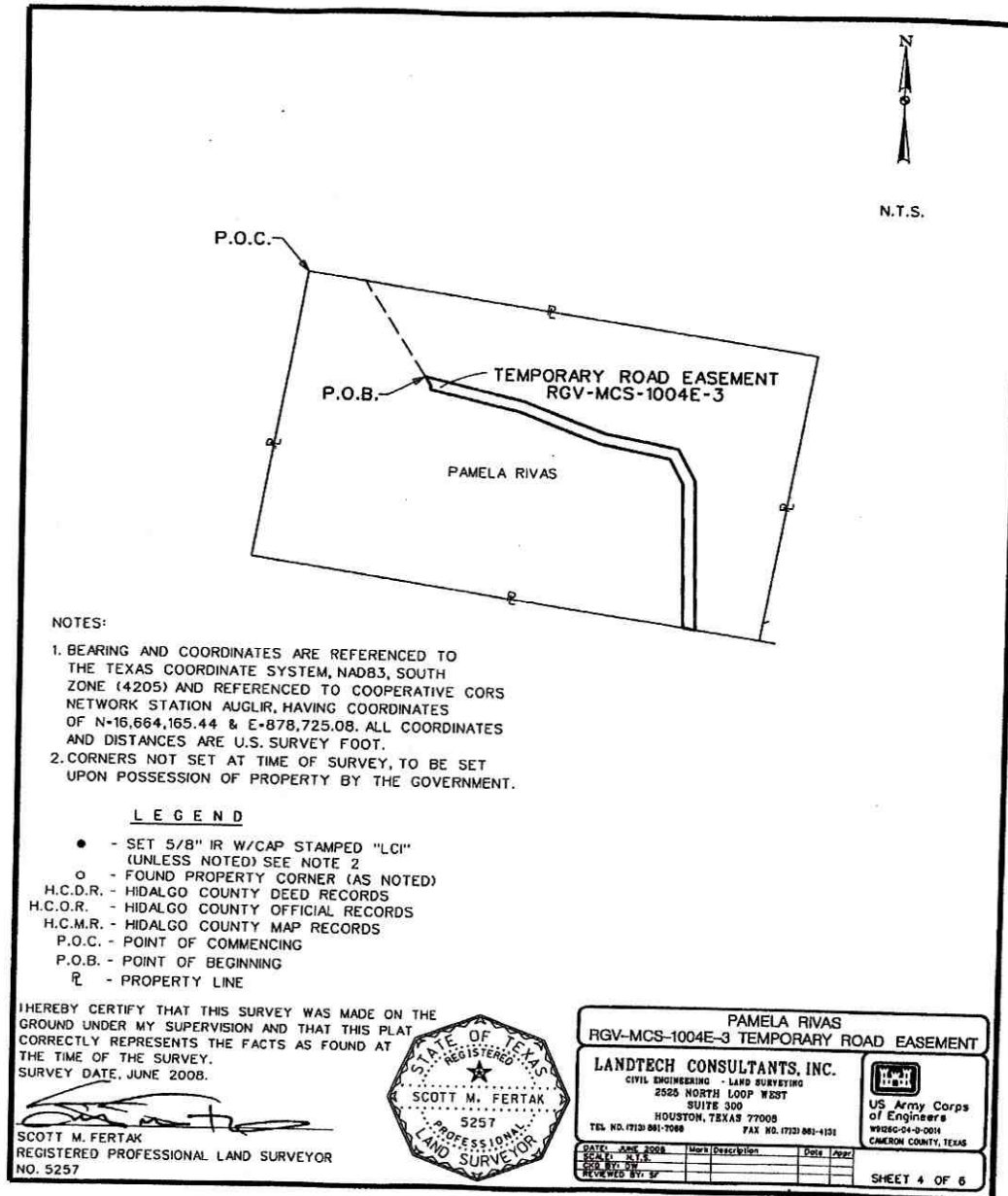
LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-2
Owner: Pamela Rivas
Acres: 0.1135
Hidalgo County, Texas

SCHEDULE "DD" Temporary Road Easement



SCHEDULE "DD" Temporary Road Easement



LAND TO BE CONDEMNED

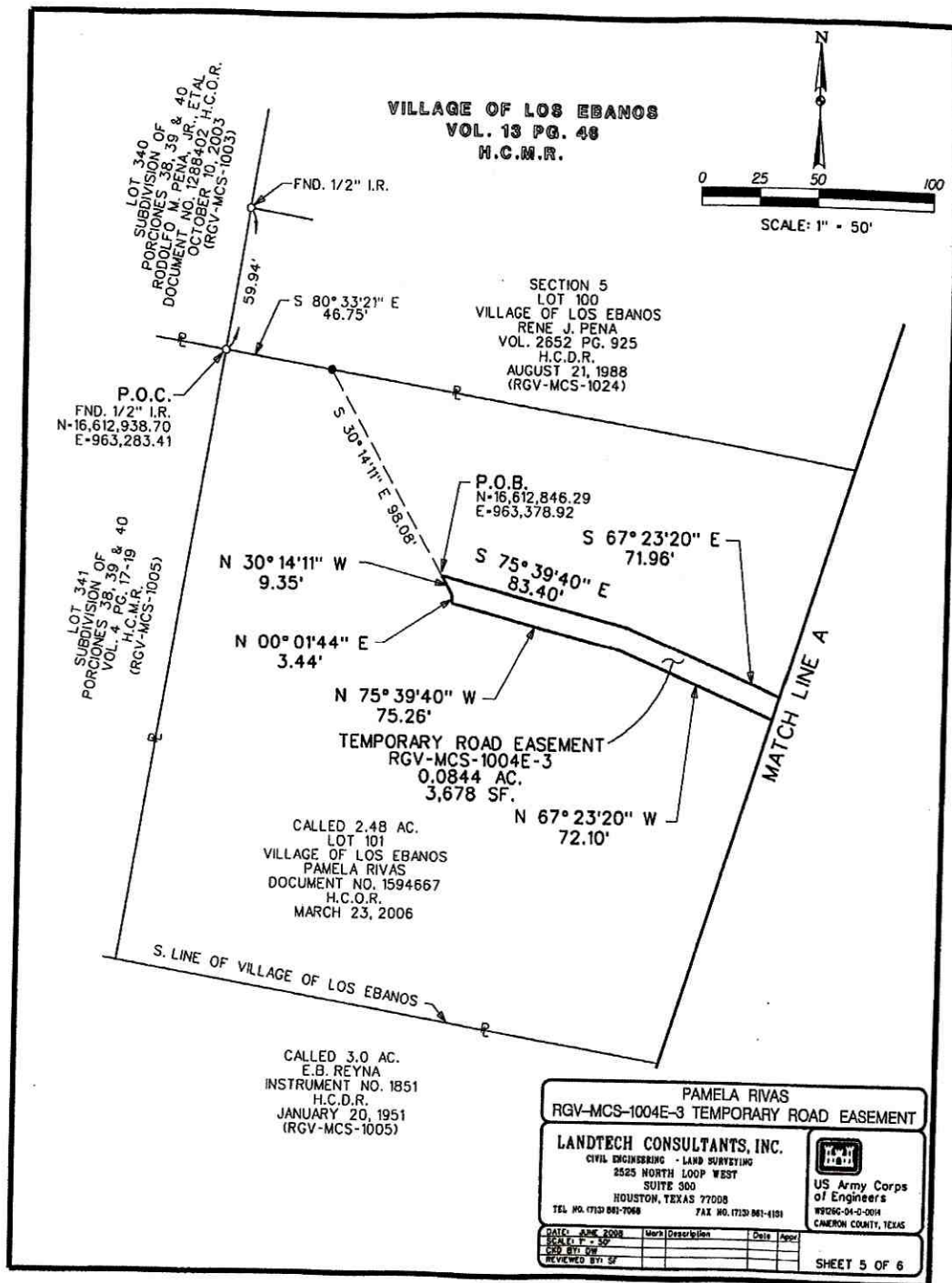
Tract: RGV-MCS-1004E-3

Owner: Pamela Rivas

Acres: 0.0844

Hidalgo County, Texas

SCHEDULE "DD"
Temporary Road Easement



Schedules EE

SCHEDULE "EE"
ESTATE TAKEN

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas

Acres: 0.3857

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all interests in minerals and the rights appurtenant thereto; reserving the following rights and interests in the property being acquired by the United States as described herein: a perpetual right-of-way on both sides of the Federal border barrier for the purpose of gaining access to condemnee's land on the other side of the border barrier; and, the United States grants to the condemnee a perpetual right-of-way across other lands of the United States along and on both sides of the border barrier to reach and utilize the nearest border barrier gate for the purpose of accessing condemnee's lands on the other side. The purpose of this provision is to clarify that the United States is not prohibiting access to condemnee's remaining lands between the border barrier and the Rio Grande River, but is providing a permanent right-of-way to condemnee and all landowners similarly situated to access the nearest border barrier gate which allows entry to the other side of the border barrier from which unacquired land can be accessed.

The estate taken excepts and excludes all interests in minerals and in water distribution and drainage systems, provided that any surface rights arising from the excluded interests in water distribution and drainage systems are subordinated to the construction, operation, and maintenance of the border barrier.